

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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FOLEY, et al.,

Plaintiffs,

v.

HORIZON BLUE CROSS BLUE SHIELD OF  
NEW JERSEY, INC.,

Defendant.

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Civil Case No. 06-6219 (FSH)

**OPINION and ORDER**

Date: September 11, 2007

**HOCHBERG, District Judge**

This matter having come before the Court on the Motion of the New Jersey Association of Health Plans (“NJAHF”) for entry of an Order granting NJAHP leave to appear and participate as amicus curiae in support of Defendant Horizon Blue Cross Blue Shield of New Jersey’s Motion to Dismiss the Complaint, and the Court having reviewed the papers submitted in support of the Motion, and the opposition thereto, and having considered the arguments of counsel and for good cause shown; and

it appearing that “[d]istrict courts have broad discretion to appoint amicus curiae.”

Liberty Lincoln Mercury, Inc. v. Ford Marketing Corp., 149 F.R.D. 65, 82 (D.N.J. 1993); see also Andersen v. Leavitt, No. 03-cv-6115, 2007 WL 2343672, at \*2 (E.D.N.Y. Aug. 13, 2007) (citing Citizens Against Casino Gambling in Erie County v. Kempthorne, 471 F. Supp. 2d 295, 311 (W.D.N.Y. 2007)); and

it appearing that it is implicit in Rule 29 of the Federal Rules of Appellate Procedure that “a motion for leave to file should be denied if the movant does not meet the

requirements of (a) an adequate interest, (b) desirability, and (c) relevance....” Neonatology Associates, P.A. v. C.I.R., 293 F.3d 128, 131 (3d Cir. 2002);

**IT IS** on this 11th day of September, 2007, thereby

**ORDERED** that the NJAHP’s Motion is **GRANTED IN PART** and **DENIED IN PART**; and it is further

**ORDERED** that the NJAHP shall be granted leave to submit a Brief in Support of Defendant Horizon Blue Cross Blue Shield of New Jersey’s Motion to Dismiss the Complaint filed by Plaintiffs; and it is further

**ORDERED** that NJAHP’s proposed amicus Brief of Behalf of Amicus Curiae, New Jersey Association of Health Plans in Support of Horizon’s Motion to Dismiss, filed June 29, 2007 as Exhibit A to NJAHP’s Notice of Motion, shall hereby be deemed filed; and it is further

**ORDERED** that NJAHP’s motion to appear and participate in any oral argument that may be heard on the Motion to Dismiss is **DENIED**.

/s/ Faith S. Hochberg

**HON. FAITH S. HOCHBERG, U.S.D.J.**